

REMARKS

This Amendment is filed in response to the Office Action mailed November 12, 2004. All objections and rejections are respectfully traversed, and Applicant therefore respectfully requests reconsideration.

Claims 1-28 are currently pending in the application.

At paragraphs 1-2 of the Office Action, claims 1-5, 11, 12, 19-21, and 28 were rejected under 35 U.S.C. §103 as being unpatentable over Anderson et al., U.S. Patent No. 6,567,122 (hereinafter Anderson) in view of Favreau et al., U.S. Patent No. 6,531,707 (hereinafter Favreau).

At paragraph 3 of the Office Action, dependent claims 6 and 23 were rejected under 35 U.S.C. §103 as being unpatentable over Anderson in view of Favreau, and in further view of Cadjan, January 2000, publication "Upgrading Novell Client Software Across the Network Using acu.exe".

At paragraph 4 of the Office Action, dependent claims 7 and 25 were rejected under 35 U.S.C. §103 as being unpatentable over Anderson in view of Favreau, and in further view of Takagi, US Patent No. 6,670,991 (hereinafter Takagi) and Bose et al., US Patent No. 4,975,972.

At paragraph 5 of the Office Action, dependent claims 8, 9, 26, and 27 were rejected under 35 U.S.C. §103 as being unpatentable over Anderson in view of Favreau, and in further view of Takagi and Bose et al., US Patent No. 5,040,228.

At paragraph 6 of the Office Action, dependent claim 10 was rejected under 35 U.S.C. §103 as being unpatentable over Anderson in view of Favreau, and in further view of Yu et al., US Patent No. 6,804,418.

At paragraph 7 of the Office Action, dependent claims 13-17 and 22 were rejected under 35 U.S.C. §103 as being unpatentable over Anderson in view of Favreau, and in further view of Nichani, US Patent No. 5,673,334.

At paragraph 8 of the Office Action, dependent claims 18 and 24 were rejected under 35 U.S.C. §103 as being unpatentable over Anderson in view of Favreau, and in further view of Fallon, US Patent No. 4,985,846.

Under 35 U.S.C. §103(c), prior art qualified only under one or more of §102(e), (f), or (g), shall not preclude patentability under §103 where the prior art and the claimed invention were, at the time the invention was made, subject to an obligation of assignment to the same person. Since Favreau was filed before applicant's filing date, and issued after the filing date, the applicability of Favreau to § 103 is based upon 35 U.S.C. § 102(e).

The Favreau patent is assigned (all right title and interest) by the inventors, Favreau, Wolinsky, and Jaaskelainen, to Cognex Corporation of Natick, Massachusetts. The assignment was originally recorded at reel and frame 011787/0577 on April 23, 2001 in Patent Application No. 09/750,175, which is now abandoned, and from which Favreau is a continuation. The assignment expressly transfers rights from the inventors to Cognex in any continuing applications from the parent application, which Favreau is one.

Likewise, the above-identified application was assigned by the inventors to Cognex Technology and Investment Corporation, this assignment being recorded at reel and frame 012788/0478 on April 4, 2002. Cognex Technology and Investment Corporation is a wholly owned subsidiary of Cognex Corporation.

Favreau was therefore owned by the same person (Cognex) as Applicant's above-identified claimed invention at the time of filing based upon the above-referenced assignments by the inventors to Cognex and/or its wholly owned subsidiary. Accordingly, the Favreau patent shall not preclude patentability of the above-referenced invention under 35 U.S.C. §103(c).

Furthermore, Applicant respectfully traverses the rejection because Anderson does not show all the elements of the claimed invention. Generally, applicant variously claims an interface that allows a machine vision tool residing in a camera unit to be operated and communicated with via a PDA or web server. The tool may operate independently to perform a machine vision task after such interface device is disconnected.

Conversely, Anderson teaches a stand-alone web camera system with a web address to allow access thereto. There is no teaching or suggestion in Anderson that the camera/interface can be used in a machine vision system. Rather this camera is basically a form of "web" camera that can be used for any purpose. For a reference to be used in combination under section 103, that reference must contain some teaching or suggestion of its combination. In this case, the examiner appears to be simply picking and choosing various features of each reference to in an effort to construct the claimed invention. This combination is not made based upon a teaching or suggestion in the references, but rather

must rely upon improper hindsight, having had the benefit of applicant's Description.

Hence, a prospective combination of references to obviate applicant's claims would have to include a suggestion or teaching of the desirability of providing a portable interface for programming and testing an otherwise independently operable machine vision tool.

Since none of the cited and applicable references contain such a teaching, alone or in combination claims 1-5, 11, 12, 19-21, and 28 are in condition for allowance.

Each of the dependent claims, 6-10, 13-18, and 22-27, depend upon allowable independent claims and should also be allowable. Moreover, the dependent claims further define the use of the interface with particular machine vision functions which is not taught or suggested in the prior art of record.

The Application is now in condition for allowance with each of the Examiner's objections and rejections addressed or traversed. The Applicant therefore respectfully requests the Examiner issue a Notice of Allowance at the earliest possible date.

The Applicant earnestly solicits the Examiner to contact the undersigned by telephone call to advance the prosecution of the application in any respect.

Respectfully submitted,



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